REMARKS

Claims 1-20 are pending in this application. Claims 16-20 are presently withdrawn from consideration.

Double Patenting Rejection

Claims 1-15 were rejected on the ground of non-statutory obviousness type double patenting as allegedly being unpatentable over claims 1-23 of U.S. Patent No. 6,375,876 ("Kessler"). Applicants respectfully traverse this rejection.

The Patent Office alleges that the term "solvent" as used in clause a) of claim 1 of the present claims fully encompasses a "solvent" comprising two constituents as recited in claim 1 of Kessler. Applicants respectfully disagree.

Kessler discloses a solvent system (alleged solvent) that includes a compound A and a compound B wherein compound A includes a solvent for a polymer compound and compound B is a non-solvent that raises a demixing temperature of a solution consisting of the polymer component and compound A. That is, the alleged solvent disclosed in Kessler is actually a combination of a solvent and a non-solvent for the preparation of a homogeneous polymer solution. In contrast, the solvent of claim 1 in the current claims may consist of either a single solvent component or a mixture of solvents. Claim 1 of the current claims does not include a non-solvent such as component B as claimed in Kessler.

Further, claim 1 of the current claims is related to a process for producing an integrally asymmetrically hydrophobic membrane consisting of at least one polyolefin, including preparing a homogeneous solution from a system comprising 20-90% by weight of the at least one polyolefin and 80-10% by weight of a solvent for the at least one polyolefin. However, the solvent of claim 1 must also fulfill the requirements of element d), i.e., that on cooling at a rate of 1°C/min, the demixing temperature of a solution of 25% by weight of the

at least one polyolefin and the solvent is 10-70°C above the solidification temperature as required in claim 1. The claims of Kessler do not teach or suggest this required property.

The Patent Office alleges that the solvents recited in claim 15 of Kessler are the same as the solvents in claim 13 of the current claims, and that claim 21 of Kessler recites that compound B may include as little as 1% of the solvent, so that the result in temperature range for the demixing temperature of claim 1 would allegedly inherently be met. Applicants respectfully disagree.

First, it should be noted that the definition for the weak solvent according to the Kessler patent is different from the definition for the weak solvent according to the present application. Thus, even though there might be some overlapping with respect to the solvents which are suitable for preparing the homogeneous solutions according to Kessler and according to the present calims, the lists of suitable solvents are not identical. This becomes evident when comparing the solvents listed in claim 13 (present claims) and claim 15 (Kessler) for poly(4-methyl-1-pentene) and listed in claim 14 (present claims) and claim 17 (Kessler) for polypropylene. For the solvents used in the process according to the present claims, it is necessary that they meet the condition that on cooling at a rate of 1°C/min, the demixing temperature of a solution of 25% by weight of the at least one polyolefin in the solvent is 10 to 70°C above the solidification temperature. Moreover, only a solvent component (or a mixture of solvents) is used in the process according to the present claims for preparation of the polyolefin solution, but no non-solvent is used.

In contrast, the teaching of Kessler is to always use a combination of a solvent and a non-solvent for the preparation of the homogenous polymer solution. The compound B is needed to influence the formation of the separation layer as well as the degree of its tightness (see Kessler, column 7, lines 52-54). There is no hint at all in Kessler on how to prepare a membrane as specified in the present claims application by using a solvent only for the

preparation of the polyolefin solution, i.e., to have omitted the required non-solvent. Taking the teaching of Kessler, there is no reason for one skilled in the art to use a solvent component only for preparation of the polyolefin solution, whereby the solvent fulfils the requirement that on cooling at a rate of 1°C/min, the demixing temperature of a solution of 25% by weight of the at least one polyolefin in the solvent is 10 to 70°C above the solidification temperature.

Second, as mentioned above, the solvent system (alleged solvent) of Kessler's claims includes a compound A and a compound B, compound B being a non-solvent. Therefore, the Patent Office is improperly making a conclusory statement that a solvent system including compound A (a solvent) and compound B (a non-solvent) in combination will meet the requirements for the claimed solvent of claim 1. With the inclusion of the non-solvent in the solvent system, it cannot be concluded that the solvent system of Kessler would inherently meet the requirements of claim 1 in the current claims, and the Patent Office has provided no evidence that including a non-solvent in the solvent system of Kessler's claims would still meet the requirements of the solvent of claim 1.

Third, on the bottom of page 2 of the Office Action, the Patent Office alleges that according to claim 21 of Kessler, the compound B may comprise as little as 1% of the solvent and that the constituents of the solvent system claimed in Kessler would therefore inherently meet the temperature range for the demixing temperature of the "wherein" clause of clause d) of present claim 1. It is here again purely speculative whether a solvent system consisting of a solvent which meets the specification given in clause d) of claim 1 of Kessler and of a non-solvent in a concentration of 1% by weight, would meet the requirement for the solvent according to the present claims.

For at least the foregoing reasons, claim 1, and dependent claims therefrom, are patentable over the applied reference. Reconsideration and withdrawal of the non-statutory obviousness type double patenting rejection are respectfully requested.

Rejoinder

Applicants respectfully submit that because claims 1-15 are in condition for allowance for the reasons set forth above, claims 16-20 should be rejoined and similarly allowed as all withdrawn claims depend, directly or indirectly, from claim 1. Thus, withdrawal of the Restriction Requirement and rejoinder of claims 16-20 are respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-20 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

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